

HALL RENDER'S THIS WEEK IN WASHINGTON - MARCH 15, 2019

PRESIDENTIAL BUDGET FOR 2020 PROPOSES MAJOR HEALTH CARE CUTS

President Trump released his administration's fiscal year 2020 budget this week. While this proposal stands little chance of being implemented in its entirety, it is a good indicator of where the administration's priorities stand for the next year, and some of the provisions, especially those related to drug pricing, could find their way into legislation on Capitol Hill. HHS Secretary Alex Azar attended hearings on Capitol Hill to address HHS priorities contained in the budget.

The condensed version of the budget can be found [here](#), and the full version that contains line-by-line funding requests for each agency is expected to be released sometime next week. The version released this week requested a 12 percent decrease in HHS's discretionary funding, even as it called for new initiatives, such as funding to end HIV transmission in the United States. It also proposes repeal of the Affordable Care Act ("ACA"), which is a complete non-starter with Democrats who control health care-related committees in Congress. Other health care priorities include:

Medicaid: The budget calls for trillions in cuts to the growth of Medicaid (and Medicare.) The administration is seeking to overhaul Medicaid through block grant funding. By implementing block grant or per capita caps, this would cut \$1.5 trillion over 10 years in Medicaid spending.

340B: The budget also calls for giving HRSA more control over 340B by asking for "broad regulatory authority for 340B to set enforceable standards of program participation." The budget requests Congress require hospitals to report their 340B savings and explain how the money is used. This was included in last year's budget, and there were a couple bills introduced last Congress mirroring this. If Republicans couldn't move this last year, there is little chance in the new Congress.

Bad Debt and Uncompensated Care: The budget calls for bringing "transparency to several Medicare payments to hospitals." The proposal calls for reducing the reimbursement for bad debt from 65 percent to 25 percent over three years starting in fiscal year 2021. Rural hospitals with fewer than 50 beds, critical access hospitals, rural health clinics and FQHCs would be exempt. The budget also proposes to cut uncompensated care payments. Starting in fiscal year 2021, uncompensated care payments would be made to hospitals based on their share of charity care and non-Medicare bad debt, as included on their Medicare cost-reports. The bad debt proposal would save \$38.5 billion over 10 years and the uncompensated care proposal would save \$98 billion over 10 years.

Site Neutral Payments: The budget has a proposal to pay all off-campus hospital outpatient facilities under the physician fee schedule in 2020 for services also performed in a doctor's office, including EDs, cancer hospitals and those exempted from current site neutral requirements. This is part of the administration's larger goal of "realigning incentives through site neutral payment reform to ensure accurate payments across different health care provider types are based on patient characteristics rather than site of care."

Medicaid Upper Payment Limits: The budget proposes eliminating what its authors refer to as "loopholes that some states use to shift and increase costs to Federal taxpayers, and for CMS to issue guidance ensuring that State Medicaid supplemental payments to hospitals and other providers are supported by robust and timely data." While this is most likely directed at the Medicaid Upper Payment Limit programs, changes beyond increased transparency and data collection should require congressional approval, and Democrats in the House have indicated that supplemental payment reform is not on their agenda.

Others: Another hospital-related proposal of note would consolidate the Hospital Value-Based Purchasing Program, Hospital-Acquired Condition Reduction Program and Hospital Readmissions Reduction Program into a single program.

SENATE FINANCE CHAIR RAISES MEDICAID DSH FORMULA CHANGE

Senate Finance Committee Chairman Chuck Grassley (R-IA) told reporters this week that he is considering changing the Medicaid Disproportionate Share Hospital ("DSH") pay formula. Instead of delaying the ACA's DSH cuts again, which Grassley's office called a "short-term budgetary gimmick," Grassley is considering changes to the formula due to concerns the current method of calculating Medicaid DSH payments is based on an outdated 1992 formula.

Since Grassley indicated that any such change would be included in either a Medicare payment extenders package or rural health legislation, the measure could get traction this year or next. As for the administration's position, the budget information released this week does not call for altering the formula for calculating DSH payments. Instead, the administration wants to extend the current law's DSH reductions through fiscal year 2029, which is estimated to save \$25.9 billion over 10 years.

CMS RELEASES GUIDANCE ON MEDICAID WORK REQUIREMENTS

On Thursday, CMS announced [guidance](#) on the agency's process to review and approve state applications for work requirements in Medicaid programs. The guidance provides standard monitoring metrics and recommended research methods geared specifically for Section 1115 demonstrations that test approaches to Medicaid eligibility and coverage policies. It also includes templates for would-be applicants and instructions on how to conduct evaluations. In a [blog post](#), CMS Administrator Seema Verma argued that the new guidance for the controversial policy, which is facing multiple court challenges, would help strengthen the Medicaid program.

BIPARTISAN LEGISLATION INTRODUCED TO COUNT OBSERVATION TOWARD THREE-DAY HOSPITAL STAY

A bipartisan group of Senate and House lawmakers introduced a bill to count beneficiaries' time spent under observation toward the three-day hospital stay required before Medicare covers nursing home care. Currently, a beneficiary must first have a three-day inpatient stay, which does not include any time spent in the hospital as an outpatient under observation or the day a patient was discharged for Medicare to pay for nursing home care. Sponsors of the legislation, such as Sens. Sherrod Brown (D-OH), Susan Collins (R-ME), Sheldon Whitehouse (D-RI) and Shelley Moore Capito (R-WV) and Reps. Joe Courtney (D-CT) and Glenn Thompson (R-PA), called the current policy an arbitrary coverage gap and noted this policy change would just be a technicality. The legislation also establishes a 90-day appeal period for those that have been denied nursing home coverage since the beginning of the year but have a qualifying hospital stay.

HEALTH-RELATED BILLS INTRODUCED THIS WEEK

Rep. Buddy Carter (R-GA) introduced [H.R. 1781](#) to amend Titles XVIII and XIX of the Social Security Act to provide the Medicare Payment Advisory Commission and the Medicaid and CHIP Payment and Access Commission with access to certain drug payment information. Sen. Catherine Cortez Masto (D-NV) introduced the companion bill ([S.801](#)) in the Senate.

Rep. Donald Payne (D-NJ) introduced [H.R. 1765](#) to amend Title XVIII of the Social Security Act to provide coverage under the Medicare program for FDA-approved qualifying colorectal cancer screening blood-based tests

Rep. Terri Sewell (D-AL) introduced [H.R. 1763](#) to amend Title XVIII of the Social Security Act to provide for the distribution of additional residency positions.

Sen. Amy Klobucher (D-MN) introduced [S. 844](#) to allow for expedited approval of generic prescription drugs and temporary importation of prescription drugs in the case of marginally competitive drug markets and drug shortages.

Sen. Sheldon Whitehouse (D-RI) introduced [S. 829](#) to amend Title XI of the Social Security Act to award cooperative agreements to improve care for individuals with advanced illnesses.

Sen. Debbie Stabenow (D-MI) introduced [S. 782](#) to amend Title XVIII of the Social Security Act to improve access to mental health services under the Medicare program.

Sen. Sherrod Brown (D-OH) introduced [S. 753](#) to amend Title XVIII of the Social Security Act to count a period of receipt of outpatient observation services in a hospital toward satisfying the three-day inpatient hospital requirement for coverage of skilled nursing facility services under Medicare.

NEXT WEEK IN WASHINGTON

Congress is out of session for a district work week. *This Week in Washington* will return on March 29 after Congress is back to work but will publish should health care developments occur.

THIS WEEK IN WASHINGTON IN HISTORY

1950, 69 years ago this week: The FBI institutes the "Ten Most Wanted Fugitives" list in an effort to publicize particularly dangerous fugitives. After a wire service news story in 1949 about the "toughest guys" the FBI wanted to capture, the story drew so much public attention that the "Ten Most Wanted" list was given the okay by J. Edgar Hoover the following year.

1864, 155 years ago this week: President Abraham Lincoln signs a document officially promoting then-Major General Ulysses S. Grant to the rank of Lieutenant General of the U.S. Army, tasking the future president with the job of leading all Union troops against the Confederate Army.

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